

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

DEVIN P. CHERRY

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PLAINTIFF

v.

Civil No. 2:23cv91-HSO-BWR

**COMMISSIONER OF SOCIAL
SECURITY**

DEFENDANT

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATION [5], AND DENYING PLAINTIFF DEVIN
P. CHERRY'S MOTION [4] TO PROCEED IN FORMA PAUPERIS**

BEFORE THE COURT is the Report and Recommendation [5] of United States Magistrate Judge Bradley W. Rath, entered on July 25, 2023, which recommends that Plaintiff Devin P. Cherry's Motion [4] for Leave to Proceed in forma pauperis be denied and that Plaintiff be required to pay both the \$350.00 filing fee and \$52.00 administrative fee within 90 days. *See* R. & R. [5] at 3. Plaintiff has not objected to the Report and Recommendation [5], and the time for doing so has passed. *See* L.U. Civ. R. 72(a)(3). After review of the record and relevant law, the Court finds that the Report and Recommendation [5] should be adopted, that Plaintiff's Motion [4] should be denied, and that Plaintiff should be required to pay both the \$350.00 filing fee and \$52.00 administrative fee within 90 days of entry of this Order.

I. DISCUSSION

Where no party has objected to a Magistrate Judge's report and recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Where there are no objections, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review to the report and recommendation. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court concludes that the Report and Recommendation [5] is neither clearly erroneous nor contrary to law. The Court will adopt the Magistrate Judge's Report and Recommendation [5] as the opinion of this Court and deny Plaintiff Devin P. Cherry's Motion [4] for Leave to Proceed in forma pauperis. The Court will require Plaintiff to pay both the \$350.00 filing fee and \$52.00 administrative fee within 90 days of entry of this Order.

II. CONCLUSION

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [5] of United States Magistrate Judge Bradley W. Rath, entered on July 25, 2023, is **ADOPTED** as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Plaintiff Devin P. Cherry's Motion [4] for Leave to Proceed in forma pauperis is **DENIED**.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Plaintiff Devin P. Cherry shall pay both the \$350.00 filing fee and \$52.00 administrative fee within **90 days** of entry of this Order. Should Plaintiff fail to timely pay these required filing and administrative fees, this matter will be dismissed without prejudice without further notice.

SO ORDERED AND ADJUDGED, this the 23rd day of August, 2023.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE